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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,148	09/04/2003	Clifford A. Wright	788105-1	9013
20985	7590	08/08/2005	EXAMINER	
FISH & RICHARDSON, PC 12390 EL CAMINO REAL SAN DIEGO, CA 92130-2081			D ADAMO, STEPHEN D	
			ART UNIT	PAPER NUMBER
			3636	
DATE MAILED: 08/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/655,148

Applicant(s)

WRIGHT, CLIFFORD A.

Examiner

Stephen D'Adamo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 16-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/27/2005
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Newly submitted claim 20 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Independent claim 20 is directed to the method of preparing a patient of a phlebotomy procedure. The original presented claimed was directed to an armrest assembly.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 20 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12 and 16-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The amended claims recite “the housing having an inner split ball means and outer split ball means” throughout. Yet, the disclosure cites a split ball arrangement having a stationary inner ball and a moveable outer ball. It is confusing and unclear since the disclosure fails to recite or explain an armrest assembly having a *plurality* of *split* balls including an inner *split* ball and an outer *split* ball. As understood from the disclosure, the single split ball unit includes an inner ball and an outer ball. Clarification is needed.

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Claim 11 recites "said securing arrangement" which lacks antecedent basis. Specifically, claim 9 recites a "securing arrangement" and "another securing arrangement". It is confusing and unclear which securing arrangement is claimed.

Claim 16 recites the phrase "a block like base unit", which renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "like"), thereby rendering the scope of the claim(s) unascertainable.

Claim 18 recites "a plurality of mounting surfaces and having mounted therein a plurality of lockable split balls" which is confusing and unclear. As understood, the mounting surfaces are disclosed as the outwardly extending arms receiving bolts in holes H.

Therefore, the plurality of split balls are not mounted within the mounting surfaces.

Clarification is needed.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9-10, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Aaras et al. (4,277,102).

In regards to claims 9-12, Aaras discloses a chair including an armrest supported from below by a universal adjustment arrangement 8 to place the arm in any one of a plurality of desired position planes relative to the supporting surface 1. The universal adjustment arrangement includes a housing 22 removably mounted to the armrest via element 6. The

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housing includes an outer split ball 27 and an inner split ball 25 mounted for universal movement relative to one another. The inner split ball has a securing arrangement 26 for securing a riser 6 to the inner split ball. The outer split ball has another securing arrangement 29 for securing the outer split ball in a fixed position relative to the inner split ball. Moreover, the outer split ball includes a control knob 30 for securing the armrest in any one of a plurality of desired position planes relative to a supporting device. Regarding claims 18 and 19, Aaras discloses a chair including an armrest comprising a housing 22 having a plurality of mounting surfaces 23 and having a plurality of lockable split balls for providing universal movement. The plurality of lockable split balls include a stationary ball 27, a moveable ball 25 and locking arrangement including a nut 29 and shaft 21. An armrest platform 3 is mounted to the plurality of mounting surfaces via supporting member 6 to facilitate lockable universal movement of the armrest relative to a stationary surface 1. A clamping riser arrangement 9, 10 is adapted to be secured between the stationary surface and the stationary split ball for supporting the armrest from the stationary surface and for facilitating raising and lowering of the armrest to a desired distance from the stationary surface. The armrest includes at least one slidably adjustable extension 6.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergsten et al. (5,281,001) in view of Zarkhin et al. (5,713,591) and Seils (1,706,634).

Bergsten discloses an “ergonomic arm support” comprising a cutout block 30 having a cutout for receiving a rail or table therein and a rail securing means 32 to facilitate attaching the cutout block to the table or rail. Further, the cutout block also includes a passageway 51 for receiving therein an elongated raiser 14 and lever raiser means 46 for raising, lowering and securing the riser at a desired height. Yet, Bergsten fails to expressly disclose a housing means for facilitating relative turning, tilting and rotating movement. However, Zarkhin teaches of an arm support having a similar mounting block 10 and elongated riser 11 received therein for adjusting the desired height of the arm support. Further, the ball clamp has a split ball arrangement, including an inner split ball fixed at the end of riser 11 that facilitates rotational, turning, and tilting movements. However, Zarkhin fails to expressly disclose an outer split ball. Seils teaches of an armrest device including a stationary ball forming an inner split ball 13 and an outer split ball 12. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the riser and housing of Bergsten with a riser and split ball arrangement as taught by Zarkhin and including an inner ball 13 and an outer ball 13, as taught by Seils, for providing a quicker and easier method of moving and locking the armrest in a different desired position.

Regarding claim 2, in modifying the housing of Bergsten with the riser and split ball arrangement of Zarkhin and Seils to accommodate tilting, turning and rotating of the arm support, the armrest can be rotated within an area by X degrees.

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Regarding claims 3-8, the cone boundary includes a three dimensional movement with tilting, turning, and rotating. Further, whether the cone boundary limits the range of motion to 15 degrees or 360 degrees, it would have been obvious to one having ordinary skill in the art at the time the invention was made to increase the range of motion from 15 degrees to the desired optimum range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zarkhin et al. (5,713,591) in view of Seils (1,706,634).

Zarkhin discloses an arm support from below by a universal adjustment arrangement to place the armrest in anyone of a plurality of desired position planes relative to a supporting surface. The universal adjustment arrangement includes a housing 12 removably mounted to the armrest. The housing includes an inner split ball, fixed to the end of riser 11 securing the riser and inner split ball together. However, the Zarkhin fails to expressly disclose an outer split ball. Seils teaches of an armrest device including a universal adjustment arrangement including an inner slit ball and an outer split ball. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the split ball arrangement of Zarkhin with an outer split ball, as taught by Seils, for providing a quicker and easier method of moving and locking the armrest in a different desired position.

Claim 16 is are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergsten et al. (5,281,001) in view of Zarkhin et al. (5,713,591).

Bergsten discloses an “ergonomic arm support” comprising a block 30 having a cutout for receiving a rail. The arm support also includes a clamping arrangement 32, 33 coupled to the cutout for helping to secure the base unit to the rail. Yet, Bergsten fails to expressly disclose a housing means for facilitating relative turning, tilting and rotating movement. However, Zarkhin teaches of an arm support having a similar mounting block 10 and elongated riser 11 received therein for adjusting the desired height of the arm support. The armrest platform is supported from below by the housing unit. Further, the ball clamp has a plurality of split balls, including an inner split ball fixed at the end of riser 11 that facilitates rotational, turning, and tilting movements. The straight part of the riser is slidably mounted within the base unit 10 and having its distal end within an individual one of the plurality of split balls. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the arm support of Bergsten with a riser and split ball arrangement as taught by Zarkhin for providing universal movement of the arm support in all directions.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bergsten et al. (5,281,001) in view of Zarkhin et al. (5,713,591) and in further view of Seils (1,706,634).

Bergsten discloses an “ergonomic arm support” comprising a block 30 having a cutout for receiving a rail. The arm support also includes a clamping arrangement 32, 33 coupled to the cutout for helping to secure the base unit to the rail. Zarkhin teaches of an arm support having a similar mounting block 10 and elongated riser 11 received therein for adjusting the desired height of the arm support. The armrest platform is supported from below by the housing unit. Further, the ball clamp has a plurality of split balls,

including an inner split ball fixed at the end of riser 11 that facilitates rotational, turning, and tilting movements. The straight part of the riser is slidably mounted within the base unit 10 and having its distal end within an individual one of the plurality of split balls. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the arm support of Bergsten with a riser and split ball arrangement as taught by Zarkhin for providing universal movement of the arm support in all directions. Yet, neither Bergsten nor Zarkhin expressly disclose the plurality of balls to include a stationary ball, a moveable ball and a locking arrangement. However, Seils teaches of an armrest device including a stationary ball forming an open socket 12, a moveable ball 13 and a locking arrangement with coiled spring 16 that secures the moveable ball in a fixed stationary position relative to the stationary ball forming an open socket 12. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the arm support of Bergsten with a split ball arrangement of Zarkhin and include a stationary ball, a moveable ball and a securing means, as taught by Seils, for providing a quicker and easier method of moving and locking the armrest in a different desired position.

Allowable Subject Matter

5. Claims 11-12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments with respect to claims 1-12 and 16-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 571-272-6857. The examiner can normally be reached on Monday-Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

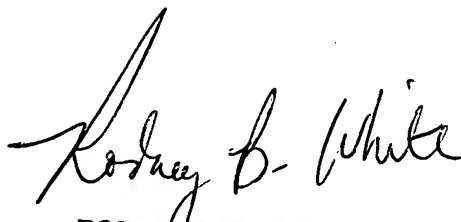
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SD

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August 2, 2005


RODNEY B. WHITE
PRIMARY EXAMINER